

REMARKS

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In particular, the Examiner objects that the term “approximately” in claims 1 and 17 render the claims indefinite. Reconsideration of the rejection is respectfully requested.

Applicant cannot find any support for the Examiner’s rejection under 35 U.S.C. 112, second paragraph or in the M.P.E.P. For example, M.P.E.P 706.03(d) discusses rejections under 35 U.S.C. 112, second paragraph. One apparently relevant section relates to a “Term of Degree Rendering Claim Indefinite” p. 700-65. The Examiner appears to be classifying the term “approximately” as one of degree. If not, clarification of the rejection is respectfully requested. For a rejection based upon a “term of degree”, the M.P.E.P. indicates that the Examiner should state that “The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.” The Examiner has not met this standard. In this instance, the term is characterized in the claim, the specification provides a standard for ascertaining the requisite degree (see, e.g., paragraph 1039), and one of ordinary skill in the art is reasonably apprised of the scope of the invention. Thus, the rejection does not appear to comply with the M.P.E.P. and otherwise appears to be an inappropriate application of 35 U.S.C. 112, second paragraph.

Applicant would like to point out that the use of the term “approximately” is prevalent in U.S. patents. On this date, applicant searched the U.S.P.T.O. web site (www.uspto.gov) to determine how many patents include the word “approximately” in a claim. The search indicated that over 180,000 U.S. patents include the word “approximately” in one or more claims. This fact strongly suggests that the Examiner’s rejection is inappropriate.

In sum, the pending claims characterize the term “approximately”, the specification provides a standard for ascertaining the requisite degree, and one of ordinary skill in the art is reasonably apprised of the scope of the invention. Moreover, the term “approximately” is prevalently used in U.S. patents and therefore should not be the subject of a rejection in this application, when other conditions associated with the use of the term are met.

In view of the foregoing amendments and remarks, the application should now be in a condition for allowance. If there are any residual matters that can be resolved with a telephone call, the Examiner is requested to contact the undersigned.

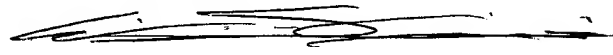
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Respectfully submitted,
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